

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAMMEYIN A. JOHNSON,	§
	§ No. 571, 2006
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 9709009665
	§
Plaintiff Below-	§
Appellee.	§

Submitted: March 6, 2007

Decided: April 19, 2007

Before **HOLLAND, JACOBS** and **RIDGELY**, Justices.

ORDER

This 19th day of April 2007, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Dammeyin A. Johnson, filed an appeal from the Superior Court's September 5, 2006 corrected sentencing order. The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.¹ We agree and affirm.

¹ Supr. Ct. R. 25(a).

(2) In 1998, Johnson was found guilty by a Superior Court jury of the lesser-included offenses of Unlawful Sexual Intercourse in the Second Degree, Unlawful Imprisonment in the Second Degree, and Unlawful Sexual Contact in the Third Degree, as well as Assault in the Third Degree and Aggravated Intimidation. He was sentenced to a total of 18 years of Level V incarceration, to be suspended after 13 years for decreasing levels of supervision. This Court affirmed Johnson's convictions and sentences on direct appeal.²

(3) In April 2004, Johnson filed a motion to correct his sentence to reflect the time he already had served at Level V in default of bail. In August 2004, the Superior Court granted Johnson's motion and issued a new sentencing order crediting Johnson with 21 days at Level V. For some unknown reason, the sentencing order also imposed a total of \$206.00 in fines and fees. Johnson's original sentencing order had contained an assessment of only \$1.00 for the Videophone Fund.

(4) In May 2006, Johnson filed a motion to correct the August 2004 sentencing order by deleting the assessment of fines and fees. The Superior Court granted the motion and issued a corrected sentencing order

² *Johnson v. State*, 753 A.2d 438 (Del. 2000).

on September 5, 2006. It is from this order that Johnson has filed the instant appeal.

(5) In his appeal, Johnson claims that he is entitled to have the last 9-12 months of his Level V sentence reduced to time at Level III probation due to the “psychological, mental and emotional hardship . . . caused by the Superior Court’s consistent arbitrary abuse of power,” as evidenced by its imposition of the unexplained \$206.00 fine.

(6) Johnson has cited to no authority supporting the proposition that he is entitled to a reduction of his sentence due to what appears to have been no more than a clerical error in the August 2004 sentencing order. Clerical mistakes in judgments, orders or other parts of the record and errors in the record resulting from oversight or omission may be corrected by the Superior Court at any time.³ The Superior Court has corrected the error in its sentencing order and Johnson is entitled to no further relief.

(7) It is manifest on the face of Johnson’s opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

³ Super. Ct. Crim. R. 36.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State of Delaware's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice